

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Regular Second Appeal No.6224 of 2015 (O&M)
Date of Decision: January 14, 2016.**

Davinder Kaur

.....APPELLANT(s).

VERSUS

Buta Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Munish Raj, Advocate for
Mr. S.S. Majithia, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Appellant-plaintiff Davinder Kaur filed suit seeking relief of declaration to the effect that she along with defendants is owner in possession of the suit land in equal shares. The main challenge of the plaintiff is to the registered Will No.201 dated 29.10.2009 executed by Gurdev Kaur in favour of defendants No.1 to 3 regarding the suit land and her other movable and immovable properties. She termed the Will as illegal, null and void, result of fraud, misrepresentation and not binding on her rights in the suit property.

2. Defendants No.1 to 3 defended the Will dated 29.10.2009 as a legal and valid document executed and got registered by Gurdev Kaur.

3. Admittedly, Gurdev Kaur was sole owner of the suit property.

She left behind two daughters i.e. plaintiff and defendant No.4-Bhajan Kaur

and sons Buta Singh, Ajaib Singh (since deceased) and Chanan Singh. Defendants No.1 to 3 alleged that Gurdev Kaur performed the marriages of plaintiff and proforma defendant by spending huge amount and had also given them cash amount, gold and silver jewellery in lieu of which they had relinquished all their rights in the property held by Gurdev Kaur.

4. Proforma defendant-Bhajan Kaur stood by defendants no.1 to 3 and supported the Will executed by Gurdev Kaur.

5. On appraisal of the evidence, both the courts below held the Will dated 29.10.2009, a legal and valid document and found no suspicious circumstances surrounding its execution. The Will was a registered document and the execution of the Will was duly proved. The plea of the appellant-plaintiff that Gurdev Kaur was not in a fit mental state to execute the Will was discarded in the absence of any medical evidence. The other plea taken by her that the witnesses of the Will belong to village Maur Drabka and not of village Patti Bor, Maur Nabha i.e. village of Gurdev Kaur, was also discarded on the ground that both are neighbouring villages and having common Panchayat. The Will was having the photograph of Gurdev Kaur to prove that she had appeared before the Sub Registrar to get the same executed. Bhajan Kaur, sister of plaintiff has supported the genuineness of Will executed by her mother.

6. I have heard learned counsel for the appellant-plaintiff at length. He could not make out any legal or factual infirmity in the observations recorded by the Courts below or to point out that any finding of the Courts below is not based on facts or evidence on record.

7. An application under Order 41 Rule 27 CPC to place on record

inquiry report dated 26.11.2009 by way of additional evidence has been filed.

8. Perusal of inquiry report shows that all the allegations levelled by the appellant against her brothers that they have wrongfully got executed the Will from Gurdev Kaur, were found to be false. The inquiry officer had inquired from Gurdev Kaur about the execution of the Will and she had also approved the same and stated by using sign language that she was being served by her sons.

9. In view of the above, the production of this report, in no manner, will advance the claim of appellant. Even otherwise, it was an inquiry report by police, which has no relevance in the facts and circumstances of the present case, as such, the application to produce this report by way of additional evidence is declined. k

10. No substantial question of law requiring determination arises in this appeal, which has no merits.

11. Dismissed.

January 14, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE